

**ASSEMBLY BILL**

**No. 1434**

**Introduced by Assembly Members Wyland and Richman  
(Coauthor: Assembly Member Maddox)**

February 21, 2003

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An act to amend Sections 3201.5 and 3201.7 of, and to add Section 3201.6 to, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1434, as introduced, Wyland. Alternative Workers' Compensation program: agreements.

Existing law establishes the workers' compensation system to compensate an employee for injuries sustained in the course of his or her employment. Existing law authorizes collective bargaining agreements between a private employer or groups of employers and a recognized or certified exclusive bargaining representative that establish a dispute resolution process for workers' compensation instead of the hearing before the Workers' Compensation Appeals Board and its workers' compensation administrative law judges, or that provides for specified other alternative workers' compensation programs. Existing law limits the applicability of these provisions to employers engaged in construction, construction maintenance, or other related activities.

This bill would expand the applicability of these provisions by removing this industry limitation.

Existing law requires certain information in connection with these provisions to be submitted to the Administrative Director of the Division of Workers' Compensation by an employer under penalty of perjury.

By expanding the definition of the crime of perjury, this bill would impose a state-mandated local program.

This bill, on and after January 1, 2004, would authorize any group of employers meeting specified criteria, notwithstanding any other provision of law, to submit an application to the Department of Industrial Relations to participate in an Alternative Workers' Compensation (AWR) program by entering into a written agreement with the department to provide a workers' compensation delivery system meeting prescribed requirements. It would also make conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 3201.5 of the Labor Code is amended  
2 to read:  
3 3201.5. (a) Except as provided in subdivisions (b) and (c),  
4 the Department of Industrial Relations and the courts of this state  
5 shall recognize as valid and binding any provision in a collective  
6 bargaining agreement between a private employer or groups of  
7 employers ~~engaged in construction, construction maintenance, or~~  
8 ~~activities limited to rock, sand, gravel, cement and asphalt~~  
9 ~~operations, heavy duty mechanics, surveying, and construction~~  
10 ~~inspection~~ and a union that is the recognized or certified exclusive  
11 bargaining representative that establishes any of the following:  
12 (1) An alternative dispute resolution system governing  
13 disputes between employees and employers or their insurers that  
14 supplements or replaces all or part of those dispute resolution  
15 processes contained in this division, including, but not limited to,  
16 mediation and arbitration. Any system of arbitration shall provide  
17 that the decision of the arbiter or board of arbitration is subject to  
18 review by the appeals board in the same manner as provided for  
19 reconsideration of a final order, decision, or award made and filed

1 by a workers' compensation administrative law judge pursuant to  
2 the procedures set forth in Article 1 (commencing with Section  
3 5900) of Chapter 7 of Part 4 of Division 4, and the court of appeals  
4 pursuant to the procedures set forth in Article 2 (commencing with  
5 Section 5950) of Chapter 7 of Part 4 of Division 4, governing  
6 orders, decisions, or awards of the appeals board. The findings of  
7 fact, award, order, or decision of the arbitrator shall have the same  
8 force and effect as an award, order, or decision of a workers'  
9 compensation administrative law judge. Any provision for  
10 arbitration established pursuant to this section shall not be subject  
11 to Sections 5270, 5270.5, 5271, 5272, 5273, 5275, and 5277.

12 (2) The use of an agreed list of providers of medical treatment  
13 that may be the exclusive source of all medical treatment provided  
14 under this division.

15 (3) The use of an agreed, limited list of qualified medical  
16 evaluators and agreed medical evaluators that may be the  
17 exclusive source of qualified medical evaluators and agreed  
18 medical evaluators under this division.

19 (4) Joint labor management safety committees.

20 (5) A light-duty, modified job or return-to-work program.

21 (6) A vocational rehabilitation or retraining program utilizing  
22 an agreed list of providers of rehabilitation services that may be the  
23 exclusive source of providers of rehabilitation services under this  
24 division.

25 (b) Nothing in this section shall allow a collective bargaining  
26 agreement that diminishes the entitlement of an employee to  
27 compensation payments for total or partial disability, temporary  
28 disability, vocational rehabilitation, or medical treatment fully  
29 paid by the employer as otherwise provided in this division. The  
30 portion of any agreement that violates this subdivision shall be  
31 declared null and void.

32 (c) Subdivision (a) shall apply only to the following:

33 (1) An employer developing or projecting an annual workers'  
34 compensation insurance premium, in California, of two hundred  
35 fifty thousand dollars (\$250,000) or more, or any employer that  
36 paid an annual workers' compensation insurance premium, in  
37 California, of two hundred fifty thousand dollars (\$250,000) in at  
38 least one of the previous three years.

39 (2) Groups of employers engaged in a workers' compensation  
40 safety group complying with Sections 11656.6 and 11656.7 of the

1 Insurance Code, and established pursuant to a joint labor  
2 management safety committee or committees, that develops or  
3 projects annual workers' compensation insurance premiums of  
4 two million dollars (\$2,000,000) or more.

5 (3) Employers or groups of employers that are self-insured in  
6 compliance with Section 3700 that would have projected annual  
7 workers' compensation costs that meet the requirements of, and  
8 that meet the other requirements of, paragraph (1) in the case of  
9 employers, or paragraph (2) in the case of groups of employers.

10 (4) Employers covered by an owner or general contractor  
11 provided wrap-up insurance policy applicable to a single  
12 construction site that develops workers' compensation insurance  
13 premiums of two million dollars (\$2,000,000) or more with  
14 respect to those employees covered by that wrap-up insurance  
15 policy.

16 (d) Employers and labor representatives who meet the  
17 eligibility requirements of this section shall be issued a letter by the  
18 administrative director advising each employer and labor  
19 representative that, based upon the review of all documents and  
20 materials submitted as required by the administrative director,  
21 each has met the eligibility requirements of this section.

22 (e) The premium rate for a policy of insurance issued pursuant  
23 to this section shall not be subject to the requirements of Section  
24 11732 or 11732.5 of the Insurance Code.

25 (f) No employer may establish or continue a program  
26 established under this section until it has provided the  
27 administrative director with all of the following:

28 (1) Upon its original application and whenever it is  
29 renegotiated thereafter, a copy of the collective bargaining  
30 agreement and the approximate number of employees who will be  
31 covered thereby.

32 (2) Upon its original application and annually thereafter, a  
33 valid and active license where that license is required by law as a  
34 condition of doing business in the state ~~within the industries set~~  
35 ~~forth in subdivision (a) of Section 3201.5.~~

36 (3) Upon its original application and annually thereafter, a  
37 statement signed under penalty of perjury, that no action has been  
38 taken by any administrative agency or court of the United States  
39 to invalidate the collective bargaining agreement.

1 (4) The name, address, and telephone number of the contact  
2 person of the employer.

3 (5) Any other information that the administrative director  
4 deems necessary to further the purposes of this section.

5 (g) No collective bargaining representative may establish or  
6 continue to participate in a program established under this section  
7 unless all of the following requirements are met:

8 (1) Upon its original application and annually thereafter, it has  
9 provided to the administrative director a copy of its most recent  
10 LM-2 or LM-3 filing with the United States Department of Labor,  
11 along with a statement, signed under penalty of perjury, that the  
12 document is a true and correct copy.

13 (2) It has provided to the administrative director the name,  
14 address, and telephone number of the contact person or persons of  
15 the collective bargaining representative or representatives.

16 (h) Commencing July 1, 1995, and annually thereafter, the  
17 Division of Workers' Compensation shall report to the Director of  
18 the Department of Industrial Relations the number of collective  
19 bargaining agreements received and the number of employees  
20 covered by these agreements.

21 (i) By June 30, 1996, and annually thereafter, the  
22 Administrative Director of the Division of Workers'  
23 Compensation shall prepare and notify Members of the  
24 Legislature that a report authorized by this section is available  
25 upon request. The report based upon aggregate data shall include  
26 the following:

27 (1) Person hours and payroll covered by agreements filed.

28 (2) The number of claims filed.

29 (3) The average cost per claim shall be reported by cost  
30 components whenever practicable.

31 (4) The number of litigated claims, including the number of  
32 claims submitted to mediation, the appeals board, or the court of  
33 appeal.

34 (5) The number of contested claims resolved prior to  
35 arbitration.

36 (6) The projected incurred costs and actual costs of claims.

37 (7) Safety history.

38 (8) The number of workers participating in vocational  
39 rehabilitation.

1 (9) The number of workers participating in light-duty  
2 programs.

3 The division shall have the authority to require those employers  
4 and groups of employers listed in subdivision (c) to provide the  
5 data listed above.

6 (j) The data obtained by the administrative director pursuant to  
7 this section shall be confidential and not subject to public  
8 disclosure under any law of this state. However, the Division of  
9 Workers' Compensation shall create derivative works pursuant to  
10 subdivisions (h) and (i) based on the collective bargaining  
11 agreements and data. Those derivative works shall not be  
12 confidential, but shall be public. On a monthly basis the  
13 administrative director shall make available an updated list of  
14 employers and unions entering into collective bargaining  
15 agreements containing provisions authorized by this section.

16 SEC. 2. Section 3201.6 is added to the Labor Code, to read:

17 3201.6. (a) Notwithstanding any other provision of law, on  
18 and after January 1, 2004, any group of private employers that has  
19 paid an aggregate of two hundred fifty thousand dollars  
20 (\$250,000) or more in annual workers' compensation insurance  
21 premiums, in California, in at least one of the previous three years  
22 and for which 50 percent or more of its employees are not  
23 represented by a union that is the recognized or certified exclusive  
24 bargaining representative, may submit an application to the  
25 Department of Industrial Relations to participate in an Alternative  
26 Workers' Compensation (AWC) program. The courts of this state  
27 and the department shall recognize as valid and binding a written  
28 agreement between such a group of employers and the department  
29 that establishes an AWC program to ensure an effective and  
30 efficient program to provide a workers' compensation delivery  
31 system for the benefit of employees and the employers covered by  
32 the agreement. The department shall approve an application for  
33 any agreement that includes, at a minimum, the following  
34 provisions:

35 (1) A list of authorized medical providers designated in the  
36 agreement to be the exclusive source of medical treatment, except  
37 for the provision of first aid and emergency care, as required by  
38 Section 4600. The list of authorized providers shall contain a  
39 sufficient number of providers in the following specialties:

40 (A) Orthopedics.

- 1 (B) Neurology.
- 2 (C) Neurosurgery.
- 3 (D) Ophthalmology.
- 4 (E) Cardiology.
- 5 (F) Internal medicine.
- 6 (G) Dermatology.
- 7 (H) Radiology.
- 8 (I) Chiropractic medicine.
- 9 (J) General or family practice.
- 10 (K) Psychiatry.
- 11 (L) Pulmonary or respiratory medicine.
- 12 (M) Occupational medicine.
- 13 (N) Oncology.

14 (2) A requirement that all prescription medications furnished  
15 as a result of injuries subject to the agreement shall be furnished  
16 by the workers' compensation insurer through an authorized  
17 pharmacist or network of pharmacies that meet certain access  
18 standards, as determined by the department.

19 (3) A list of authorized vocational rehabilitation providers  
20 available to every qualified injured worker. For the purposes of  
21 this section, "qualified injured worker" has the same meaning as  
22 set forth in subdivision (a) of Section 4635.

23 (4) A requirement that the opinions and recommendations of  
24 the authorized provider selected in accordance with the agreement  
25 shall bind both the insurer and the employee. In the event of a  
26 disagreement with the authorized provider's opinions or  
27 recommendations, the employee's sole recourse shall be to obtain  
28 a second opinion from another authorized provider in the same  
29 specialty as that of the first provider and to present the second  
30 opinion in accordance with procedures contained in an Alternative  
31 Dispute Resolution (ADR) program, which shall be established by  
32 the agreement pursuant to paragraph (5).

33 (5) A requirement that an ADR program be utilized in place of,  
34 and to the exclusion of, the Division of Workers' Compensation  
35 hearing and dispute resolution procedures, with review of all ADR  
36 program decisions by the appeals board and the court of appeal, as  
37 requested by the parties. The ADR program shall be used in place  
38 of the filing of an Application for Adjudication of Claim with the  
39 appeals board. Any claim filed with the appeals board by an  
40 employee subject to the agreement may immediately be removed

1 on motion of the insurer and processed in accordance with the  
2 ADR program established by the agreement. The ADR program  
3 shall apply to all compensable, work-related injuries, including  
4 occupational disease, sustained by employees while working  
5 under, and covered by, the agreement. The department shall adopt  
6 regulations regarding claims adjudication procedures in the event  
7 an agreement is terminated by a group of employers or the  
8 department.

9 (6) A requirement that the ADR program consist of a process  
10 for the selection and timely issuance of decisions by impartial  
11 mediators and arbitrators, as specified by the department.

12 (b) The Director of Industrial Relations may terminate an  
13 agreement upon the issuance of written findings and evidence that  
14 the agreement is not being implemented in accordance with its  
15 provisions.

16 SEC. 3. Section 3201.7 of the Labor Code, as added by  
17 Chapter 6 of the Statutes of 2002, is amended to read:

18 3201.7. (a) ~~Except~~ *Notwithstanding Section 3201.5, and*  
19 *except* as provided in subdivisions (b) and (c), the Department of  
20 Industrial Relations and the courts of this state shall recognize as  
21 valid and binding any provision in a collective bargaining  
22 agreement between a private employer or groups of employers  
23 engaged in the aerospace or timber industries and a union that is  
24 the recognized or certified exclusive bargaining representative  
25 that establishes any of the following:

26 (1) An alternative dispute resolution system governing  
27 disputes between employees and employers or their insurers that  
28 supplements or replaces all or part of those dispute resolution  
29 processes contained in this division, including, but not limited to,  
30 mediation and arbitration. Any system of arbitration shall provide  
31 that the decision of the arbiter or board of arbitration is subject to  
32 review by the appeals board in the same manner as provided for  
33 reconsideration of a final order, decision, or award made and filled  
34 by a workers' compensation judge pursuant to the procedures set  
35 forth in Article 1 (commencing with Section 5900) of Chapter 7  
36 of Part 4 of Division 4, and the court of appeals pursuant to the  
37 procedures set forth in Article 2 (commencing with Section 5950)  
38 of Chapter 7 of Part 4 of Division 4, governing orders, decisions,  
39 or awards of the appeals board. The findings of fact, award, order,  
40 or decision of the arbitrator shall have the same force and effect as

1 an award, order, or decision of a workers' compensation  
2 administrative law judge. Any provision for arbitration  
3 established pursuant to this section shall not be subject to Sections  
4 5270, 5270.5, 5271, 5272, 5273, 5275, and 5277.

5 (2) The use of an agreed list of providers of medical treatment  
6 that may be the exclusive source of all medical treatment provided  
7 under this division.

8 (3) The use of an agreed, limited list of qualified medical  
9 evaluators and agreed medical evaluators that may be the  
10 exclusive source of qualified medical evaluators and agreed  
11 medical evaluators under this division.

12 (4) Joint labor management safety committees.

13 (5) A light-duty, modified job or return-to-work program.

14 (6) A vocational rehabilitation or retraining program utilizing  
15 an agreed list of providers of rehabilitation services that may be the  
16 exclusive source of providers of rehabilitation services under this  
17 division.

18 (b) Nothing in this section shall allow a collective bargaining  
19 agreement that diminishes the entitlement of an employee to  
20 compensation payments for total or partial disability, temporary  
21 disability, vocational rehabilitation, or medical treatment fully  
22 paid by the employer as otherwise provided in this division; nor  
23 shall any agreement authorized by this section deny to any  
24 employee the right to representation by counsel at all stages of the  
25 alternative dispute resolution process. The portion of any  
26 agreement that violates this subdivision shall be declared null and  
27 void.

28 (c) Subdivision (a) shall apply only to the following:

29 (1) An employer developing or projecting an annual workers'  
30 compensation insurance premium, in California, of two hundred  
31 fifty thousand dollars (\$250,000) or more, or any employer that  
32 paid an annual workers' compensation insurance premium, in  
33 California, of two hundred fifty thousand dollars (\$250,000), in at  
34 least one of the previous three years.

35 (2) Groups of employers engaged in a workers' compensation  
36 safety group complying with Sections 11656.6 and 11656.7 of the  
37 Insurance Code, and established pursuant to a joint labor  
38 management safety committee or committees, which develops or  
39 projects annual workers' compensation insurance premiums of  
40 two million dollars (\$2,000,000) or more.

1 (3) Employer or groups of employers that are self-insured in  
2 compliance with Section 3700 that would have projected annual  
3 workers' compensation costs that meet the requirements of  
4 paragraph (1) in the case of employers, or paragraph (2) in the case  
5 of groups of employers.

6 (d) Employers and labor representatives who meet the  
7 eligibility requirements of this section shall be issued a letter by the  
8 administrative director advising each employer and labor  
9 representative that, based upon the review of all documents and  
10 materials submitted as required by the administrative director,  
11 each has met the eligibility requirements of this section.

12 (e) The premium rate for a policy of insurance issued pursuant  
13 to this section shall not be subject to the requirements of Section  
14 11732 or 11732.4 of the Insurance Code.

15 (f) No employer may establish or continue a program  
16 established under this section until it has provided the  
17 administrative director with all of the following:

18 (1) Upon its original application and whenever it is  
19 renegotiated thereafter, a copy of the collective bargaining  
20 agreement and the approximate number of employees who will be  
21 covered thereby.

22 (2) Upon its original application and annually thereafter, a  
23 valid and active license where that license is required by law as a  
24 condition of doing business in the state within the industries set  
25 forth in subdivision (a).

26 (3) Upon its original application and annually thereafter, a  
27 statement signed under penalty of perjury, that no action has been  
28 taken by any administrative agency or court of the United States  
29 to invalidate the collective bargaining agreement.

30 (4) The name, address, and telephone number of the contact  
31 person of the employer.

32 (5) Upon its original application, a plan agreed to between an  
33 employer and any affected union prior to the commencement of  
34 collective bargaining, that establishes a framework for the  
35 implementation of the system to be developed pursuant to  
36 subdivision (a).

37 (6) Any other information that the administrative director  
38 deems necessary to further the purposes of this section.



(g) No collective bargaining representative may establish or continue to participate in a program established under this section unless all of the following requirements are met:

(1) Upon its original application and annually thereafter, it has provided to the administrative director a copy of its most recent LM-2 or LM-3 filing with the United States Department of Labor, along with a statement, signed under penalty of perjury, that the document is a true and correct copy.

(2) It has provided to the administrative director the name, address, and telephone number of the contact person or persons of the collective bargaining representative or representatives.

(h) Commencing July 1, 2004, and annually thereafter, the Division of Workers' Compensation shall report to the Director of Industrial Relations the number of collective bargaining agreements received and the number of employees covered by these agreements.

(i) By June 30, 2004, and annually thereafter, the Administrative Director of the Division of Workers' Compensation shall prepare and notify members of the Legislature that a report authorized by this section is available upon request. The report based upon aggregate data shall include the following:

(1) Person hours and payroll covered by agreements filed.

(2) The number of claims filed.

(3) The average cost per claim shall be reported by cost components whenever practicable.

(4) The number of litigated claims, including the number of claims submitted to mediation, the appeals board, or the court of appeals.

(5) The number of contested claims resolved prior to arbitration.

(6) The projected incurred costs and actual costs of claims.

(7) Safety history.

(8) The number of workers participating in vocational rehabilitation.

(9) The number of workers participating in light-duty programs.

(10) Overall worker satisfaction.

The division shall have the authority to require those employers and groups of employers listed in subdivision (c) to provide the data listed above.

1 (j) The data obtained by the administrative director pursuant to  
2 this section shall be confidential and not subject to public  
3 disclosure under any law of this state. However, the Division of  
4 Workers' Compensation shall create derivative works pursuant to  
5 subdivisions (h) and (i) based on the collective bargaining  
6 agreements and data. Those derivative works shall not be  
7 confidential, but shall be public. On a monthly basis the  
8 administrative director shall make available an updated list of  
9 employers and unions entering into collective bargaining  
10 agreements containing provisions authorized by this section.

11 SEC. 4. Section 3201.7 of the Labor Code, as added by  
12 Chapter 866 of the Statutes of 2002, is amended to read:

13 3201.7. (a) ~~Except~~ *Notwithstanding Section 3201.5, and*  
14 *except* as provided in subdivisions (b) and (c), the Department of  
15 Industrial Relations and the courts of this state shall recognize as  
16 valid and binding any provision in a collective bargaining  
17 agreement between a private employer or groups of employers  
18 engaged in the aerospace or timber industries and a union that is  
19 the recognized or certified exclusive bargaining representative  
20 that establishes any of the following:

21 (1) An alternative dispute resolution system governing  
22 disputes between employees and employers or their insurers that  
23 supplements or replaces all or part of those dispute resolution  
24 processes contained in this division, including, but not limited to,  
25 mediation and arbitration. Any system of arbitration shall provide  
26 that the decision of the arbiter or board of arbitration is subject to  
27 review by the appeals board in the same manner as provided for  
28 reconsideration of a final order, decision, or award made and filled  
29 by a workers' compensation administrative law judge pursuant to  
30 the procedures set forth in Article 1 (commencing with Section  
31 5900) of Chapter 7 of Part 4 of Division 4, and the court of appeal  
32 pursuant to the procedures set forth in Article 2 (commencing with  
33 Section 5950) of Chapter 7 of Part 4 of Division 4, governing  
34 orders, decisions, or awards of the appeals board. The findings of  
35 fact, award, order, or decision of the arbitrator shall have the same  
36 force and effect as an award, order, or decision of a workers'  
37 compensation administrative law judge. Any provision for  
38 arbitration established pursuant to this section shall not be subject  
39 to Sections 5270, 5270.5, 5271, 5272, 5273, 5275, and 5277.



1 (2) The use of an agreed list of providers of medical treatment  
2 that may be the exclusive source of all medical treatment provided  
3 under this division.

4 (3) The use of an agreed, limited list of qualified medical  
5 evaluators and agreed medical evaluators that may be the  
6 exclusive source of qualified medical evaluators and agreed  
7 medical evaluators under this division.

8 (4) Joint labor management safety committees.

9 (5) A light-duty, modified job or return-to-work program.

10 (6) A vocational rehabilitation or retraining program utilizing  
11 an agreed list of providers of rehabilitation services that may be the  
12 exclusive source of providers of rehabilitation services under this  
13 division.

14 (b) Nothing in this section shall allow a collective bargaining  
15 agreement that diminishes the entitlement of an employee to  
16 compensation payments for total or partial disability, temporary  
17 disability, vocational rehabilitation, or medical treatment fully  
18 paid by the employer as otherwise provided in this division; nor  
19 shall any agreement authorized by this section deny to any  
20 employee the right to representation by counsel at all stages of the  
21 alternative dispute resolution process. The portion of any  
22 agreement that violates this subdivision shall be declared null and  
23 void.

24 (c) Subdivision (a) shall apply only to the following:

25 (1) An employer developing or projecting an annual workers'  
26 compensation insurance premium, in California, of two hundred  
27 fifty thousand dollars (\$250,000) or more, or any employer that  
28 paid an annual workers' compensation insurance premium, in  
29 California, of two hundred fifty thousand dollars (\$250,000), in at  
30 least one of the previous three years.

31 (2) Groups of employers engaged in a workers' compensation  
32 safety group complying with Sections 11656.6 and 11656.7 of the  
33 Insurance Code, and established pursuant to a joint labor  
34 management safety committee or committees, which develops or  
35 projects annual workers' compensation insurance premiums of  
36 two million dollars (\$2,000,000) or more.

37 (3) Employer or groups of employers that are self-insured in  
38 compliance with Section 3700 that would have projected annual  
39 workers' compensation costs that meet the requirements of

1 paragraph (1) in the case of employers, or paragraph (2) in the case  
2 of groups of employers.

3 (4) In the aerospace and timber industry, this section shall apply  
4 only to an affiliate of a national or international labor organization  
5 that has one or more affiliate local unions that negotiated an  
6 agreement or agreements pursuant to Section 3201.5 prior to  
7 January 1, 2003.

8 (d) Employers and labor representatives who meet the  
9 eligibility requirements of this section shall be issued a letter by the  
10 administrative director advising each employer and labor  
11 representative that, based upon the review of all documents and  
12 materials submitted as required by the administrative director,  
13 each has met the eligibility requirements of this section.

14 (e) The premium rate for a policy of insurance issued pursuant  
15 to this section shall not be subject to the requirements of Section  
16 11732 or 11732.5 of the Insurance Code.

17 (f) No employer may establish or continue a program  
18 established under this section until it has provided the  
19 administrative director with all of the following:

20 (1) Upon its original application and whenever it is  
21 renegotiated thereafter, a copy of the collective bargaining  
22 agreement and the approximate number of employees who will be  
23 covered thereby.

24 (2) Upon its original application and annually thereafter, a  
25 valid and active license where that license is required by law as a  
26 condition of doing business in the state within the industries set  
27 forth in subdivision (a).

28 (3) Upon its original application and annually thereafter, a  
29 statement signed under penalty of perjury, that no action has been  
30 taken by any administrative agency or court of the United States  
31 to invalidate the collective bargaining agreement.

32 (4) The name, address, and telephone number of the contact  
33 person of the employer.

34 (5) Upon its original application, a plan agreed to between an  
35 employer and any affected union prior to the commencement of  
36 collective bargaining, that establishes a framework for the  
37 implementation of the system to be developed pursuant to  
38 paragraph (1) of subdivision (a).

39 (6) Any other information that the administrative director  
40 deems necessary to further the purposes of this section.



(g) No collective bargaining representative may establish or continue to participate in a program established under this section unless all of the following requirements are met:

(1) Upon its original application and annually thereafter, it has provided to the administrative director a copy of its most recent LM-2 or LM-3 filing with the United States Department of Labor, along with a statement, signed under penalty of perjury, that the document is a true and correct copy.

(2) It has provided to the administrative director the name, address, and telephone number of the contact person or persons of the collective bargaining representative or representatives.

(h) Commencing July 1, 2004, and annually thereafter, the Division of Workers' Compensation shall report to the Director of Industrial Relations the number of collective bargaining agreements received and the number of employees covered by these agreements.

(i) By June 30, 2004, and annually thereafter, the Administrative Director of the Division of Workers' Compensation shall prepare and notify members of the Legislature that a report authorized by this section is available upon request. The report based upon aggregate data shall include the following:

(1) Person hours and payroll covered by agreements filed.

(2) The number of claims filed.

(3) The average cost per claim shall be reported by cost components whenever practicable.

(4) The number of litigated claims, including the number of claims submitted to mediation, the appeals board, or the court of appeals.

(5) The number of contested claims resolved prior to arbitration.

(6) The projected incurred costs and actual costs of claims.

(7) Safety history.

(8) The number of workers participating in vocational rehabilitation.

(9) The number of workers participating in light-duty programs.

(10) Overall worker satisfaction.

The division shall have the authority to require those employers and groups of employers listed in subdivision (c) to provide the data listed above.

1 (j) The data obtained by the administrative director pursuant to  
2 this section shall be confidential and not subject to public  
3 disclosure under any law of this state. However, the Division of  
4 Workers' Compensation shall create derivative works pursuant to  
5 subdivisions (h) and (i) based on the collective bargaining  
6 agreements and data. Those derivative works shall not be  
7 confidential, but shall be public. On a monthly basis, the  
8 administrative director shall make available an updated list of  
9 employers and unions entering into collective bargaining  
10 agreements containing provisions authorized by this section.

11 SEC. 5. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.

